

EMPLOYMENT AGENCY LAW ►

Neb. Rev. Stat. §§48-501 to 48-524

[Current Through 2014 Regular Session]

STATE OF NEBRASKA

DAVE HEINEMAN, Governor

DEPARTMENT OF LABOR

JOHN H. ALBIN, Acting Commissioner

EMPLOYMENT AGENCY LAW

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TEXT OF THE LAW

48-501. Repealed.

Source: Laws 1977, LB 162, s. 24.

48-501.01. Terms, defined. For purposes of sections 48-501.01 to 48-513, 48-515, 48-516, and 48-518 to 48-524, unless the context otherwise requires:

(1) Person shall mean natural persons, corporations, trusts, unincorporated associations, partnerships, and limited liability companies;

(2) Private employment agency shall mean a person who for hire or with a view to profit shall undertake to secure employment for individuals where a fee or other valuable consideration is exacted or attempted to be collected directly from the employee; and

(3) The term fee shall mean any money or other valuable consideration paid or promised to be paid by an employee for services rendered or to be rendered by a private employment agency.

Source: Laws 1977, LB 162, § 1; Laws 1993, LB 121, § 288.

48-502. Repealed.

Source: Laws 1977, LB 162, s. 24.

48-503. Employment agency; license; qualifications; fee; offices; location. No person, firm, or corporation in this state shall open, operate, or maintain a private employment agency for hire or for help without first obtaining a license for the same from the Commissioner of Labor, and the license fee shall be one hundred fifty dollars per annum payable in advance on May 1 of each year, and each license shall expire on April 30 of each year. When application is made by a firm or corporation, it must be verified by each member who will benefit from such license. The Commissioner of Labor may require evidence of the moral character of all applicants and make such investigation of the applicants as he or she deems necessary. If the applicant is an individual, the application shall include the applicant's social security number. No license shall be issued to any person or persons except those of good moral character. No license shall be issued to any person or persons if anyone financially interested in or who has managerial control of the proposed private employment agency has been convicted of a felony. Such licenses shall permit the private employment agency to maintain one office under such license and to conduct business only at that location. Every license shall contain a designation of the city, street, and number of the building in which the licensed parties conduct such private employment agency. In case of removal to another location during the period covered by such license, the commissioner shall be notified thirty days prior to the change of location and the license corrected accordingly. No such license shall be transferable.

Source: Laws 1921, c. 189, § 2, p. 702; C.S.1922, § 7728; C.S.1929, § 48-502; R.S.1943, § 48-503; Laws 1965, c. 285, § 2, p. 815; Laws 1972, LB 1460, § 2; Laws 1977, LB 162, § 2; Laws 1982, LB 928, § 40; Laws 1997, LB 752, § 127.

Annotations:

License to operate employment agency is required. State ex rel. Weasmer v. Manpower of Omaha, Inc., 161 Neb. 387, 73 N.W.2d 692 (1955).

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48-504. Bond; amount; conditions; discipline of licensee; powers. The Commissioner of Labor shall require with each application for a license a surety bond in the penal sum of ten thousand dollars. Such bond shall be approved by the commissioner and conditioned that the obligor will not violate any of the duties, terms, conditions, provisions or requirements of sections 48-503 to 48-524. The commissioner is authorized to cause an action or actions to be brought on such bond in the name of the state for any violation of any of its conditions. The commissioner may approve actions on the bond by private parties. He may revoke upon a full hearing any license whenever in his judgment the party licensed shall have violated any of the provisions of said sections. In the prosecution of any inquiry, the commissioner is hereby empowered to administer oaths, subpoena witnesses, take depositions, compel the attendance of witnesses, and the production of books, accounts, papers, records, documents and testimony.

Source: Laws 1921, c. 189, § 3, p. 702; C.S.1922, § 7729; C.S.1929, § 48-503; R.S.1943, §48-504; Laws 1972, LB 1460, § 3; Laws 1977, LB 162, § 3.

48-505. License; cancellation; grounds; period. In case of refusal of any person to comply with the order of the Commissioner of Labor or subpoena issued by him, or the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, or refusal to permit any inspection as aforesaid the commissioner may cancel the license held by such person, firm or corporation refusing to comply with the order of the commissioner. The orders of the commissioner shall be in accord with the provisions of sections 48-503 to 48-524. When such license shall be canceled, it shall not be reissued to such person, firm or corporation for a period of one year or less from the date of cancellation.

Source: Laws 1921, c. 189, § 4, p. 703; C.S.1922, § 7730; C.S.1929, § 48-504; R.S.1943, §48-505; Laws 1972, LB 1460, § 4; Laws 1977, LB 162, § 4.

48-506. State employment service; use of similar name prohibited. No private employment agency shall print, publish or paint on any sign or window, or insert in any newspaper or publication a name similar to that of the Nebraska state employment service.

Source: Laws 1921, c. 189, § 5, p. 703; C.S.1922, § 7731; C.S.1929, § 48-505; R.S.1943, §48-506; Laws 1961, c. 235, § 2, p. 694; Laws 1977, LB 162, § 5.

48-507. Private employment agency; register. It shall be the duty of every private employment agency to keep a register in which shall be entered the name and sex of every person for whom employment is secured and the amount of fee charged. Such private employment agency shall also enter into a register the name and address of every person for whom help or servants are secured. Every private employment agency shall also keep a register or booklet in which shall be entered a copy of all advertisements used by it, with the name of the company to which each advertisement refers. Such registers shall at all reasonable hours be open to the inspection and examination of the Commissioner of Labor or his or her agent.

Source: Laws 1921, c. 189, § 6, p. 703; C.S.1922, § 7732; C.S.1929, § 48-506; R.S.1943, §48-507; Laws 1972, LB 1460, § 5; Laws 1977, LB 162, § 6; Laws 1995, LB 699, § 1.

48-508. Private employment agency; records; form; contents. Every private employment agency shall issue a record to each person securing employment or help showing the occupation, name, and address of the applicant and the amount of fee charged for procuring the position, and such record shall also show the wages to be paid to the person securing employment, together with the name and address of the employer, the name and address of the private employment agency issuing such record, the nature of the employment offered, and if a strike or lockout is known to exist the fact shall be stated. A copy shall be retained by the private employment agency issuing the same.

Source: Laws 1921, c. 189, § 7, p. 703; C.S.1922, § 7733; C.S.1929, § 48-507; R.S.1943, §48-508; Laws 1972, LB 1460, § 6; Laws 1977, LB 162, § 7; Laws 1995, LB 699, § 2.

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48-509. Repealed.

Source: Laws 1972, LB 1460, s. 17.

48-510. Records; statement of fees collected; refund; when required. The fee for procuring employment or help in all cases shall be clearly set out in the records provided for in section 48-508. The record shall plainly show the amount of the registration fee and all commissions and expenses or compensations whatsoever to such private employment agency for procuring employment or help. In case the party paying such fee fails to obtain employment specified, such private employment agency shall repay the same to such person upon demand being made therefor.

Source: Laws 1921, c. 189, § 9, p. 706; C.S.1922, § 7735; C.S.1929, § 48-509; R.S.1943, §48-510; Laws 1972, LB 1460, § 14; Laws 1977, LB 162, § 8.

48-511. Fees; splitting with employer forbidden; penalty. Any private employment agency, or agent thereof, who shall be guilty of dividing fees with any superintendent, manager, foreman or other employees of any person, company, corporation or association, for whom employees are furnished shall be guilty of a Class III misdemeanor. Upon conviction, his license shall be revoked at once by the Commissioner of Labor.

Source: Laws 1921, c. 189, § 10, p. 706; C.S.1922, § 7736; C.S.1929, § 48-510; R.S.1943, §48-511; Laws 1972, LB 1460, § 15; Laws 1977, LB 40, § 288; Laws 1977, LB 162, § 9; Laws 1979, LB 4, § 2.

48-512. Unlawful acts. No private employment agency shall knowingly send, or cause to be sent, any help or servant to any place of bad repute, house of ill fame, or assignation house or to any house or place of amusement kept for immoral purposes. No such private employment agency shall publish or cause to be published any false information, make any false promise concerning or relating to work or employment to anyone who shall register for employment, and no private employment agency shall make any false entries in the register to be kept as herein provided. No private employment agency shall charge the applicant a service fee if any owner, manager, or employee of such private employment agency has an active interest in the business to which the applicant is being referred.

Source: Laws 1921, c. 189, § 11, p. 706; C.S.1922, § 7737; C.S.1929, § 48-511; R.S.1943, §48-512; Laws 1972, LB 1460, § 16; Laws 1977, LB 162, § 10; Laws 1979, LB 80, § 105.

48-513. Enforcement; violations; general penalty. It shall be the duty of the Commissioner of Labor to enforce sections 48-503 to 48-514. When informed of any violation thereof it shall be his duty to investigate the same, as hereinbefore provided, and he may institute criminal proceedings for enforcement of its penalties before any court of competent jurisdiction. Any person convicted of a violation of the provisions of said sections, not otherwise provided for, shall be guilty of a Class III misdemeanor. For a conviction of a second offense his license shall be revoked. Any person or persons who shall knowingly send any female help or servant to any place of bad repute, house of ill fame or assignation house, or to any house or place of amusement kept for immoral purposes, shall be guilty of a Class III misdemeanor and no license to operate a private employment agency shall be issued to such party and any such existing license shall be permanently canceled.

Source: Laws 1919, c. 190, tit. IV, art. V, § 12, p. 572; Laws 1921, c. 189, § 12, p. 707; C.S.1922, § 7738; C.S.1929, § 48-512; R.S.1943, § 48-513; Laws 1977, LB 40, § 289; Laws 1977, LB 162, § 11; Laws 1979, LB 4, § 3.

48-514. Fees; payment to State Treasurer. All money paid to the Commissioner of Labor or license

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fees under section 48-503, shall be paid over by him to the State Treasurer.

Source: Laws 1921, c. 189, § 13, p. 707; C.S.1922, § 7739; C.S.1929, § 48-513.

48-515. Foreign labor agent or agency; acts forbidden; license required. No foreign labor agent, labor bureau or labor agency or other person or corporation domiciled in any other state or territory of the United States shall enter this state and attempt to hire, entice, or solicit or take from this state any common or agricultural workers, singly or in groups, for any purpose without first applying to the Commissioner of Labor for a license as a private employment agency.

Source: Laws 1965, c. 285, § 4, p. 817; Laws 1977, LB 162, § 12.

48-516. Foreign labor agent; reports required; contents. Any labor agent hiring, enticing or soliciting common or agricultural workers in this state for employment beyond this state, shall make monthly reports to the commissioner on the first day of each month covering the preceding month correctly showing the name and address of every representative, subagent, contractor, recruiter or solicitor engaged in any part of the work of that agency connected with the hiring, enticing or soliciting of common or agricultural workers in this state to be employed beyond the limits of this state, and correctly showing:

- (1) The name, age, sex and address of each person solicited to be employed beyond the limits of this state;
- (2) The name and address of the employer of every such person;
- (3) The place where every such person is to be employed;
- (4) The kind of work every such person is employed to do;
- (5) The term of employment of every such person;
- (6) The wages to be paid to every such person for his work; and
- (7) Whether or not transportation is to be furnished, arranged for, or paid for any such common laborer or agricultural worker either leaving or returning to this state.

The commissioner shall cancel the license of every agent or private employment agency who or which fails to make and file such reports on or before the tenth day of each month for the preceding month in accordance with the cancellation provisions provided in section 48-505.

Source: Laws 1965, c. 285, § 5, p. 817; Laws 1977, LB 162, § 13.

48-517. Foreign labor agents or agencies; violation; penalty. Any person violating the provisions of section 48-515 or 48-516 shall be subject to the penalties set out in section 48-513.

Source: Laws 1965, c. 285, § 6, p. 818.

48-518. Registration fee; receipt; contents; refund. A registration fee not to exceed five dollars may be charged by such private employment agency when such agency shall be of actual expense in advertising such individual applicant, or in looking up the reference of such applicant. In all such cases, a complete record shall be kept of all such references, which record shall, during all business hours, be open for the inspection of the Commissioner of Labor or any inspector appointed by the commissioner to make such inspections, and upon demand shall be subject to the inspection and examination by the applicant. For such registration fee a receipt shall be given to the applicant for employment or help, giving the name of such applicant, the date of payment, and the character of the position or help applied for, and

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the receipt shall have printed or stamped on the front thereof, in the English language, the name of the Commissioner of Labor and his address. Such registration fee shall be returned to the applicant on demand, after thirty days and within sixty days from the date of receipt, less the amount that has been actually expended by such private employment agency for the applicant, and an itemized account of such expenditures shall be presented to the applicant on request at the time of returning the unused portion of such registration fee if no position or help has been furnished by the private employment agency to and accepted by the applicant.

Source: Laws 1972, LB 1460, § 7; Laws 1977, LB 162, § 14.

48-519. Fees; posting; payment; contents; private employment agency contracts; filed; copy. No private employment agency shall, as a condition to registering or obtaining employment for such applicant, require such applicant to subscribe to any publication or exact any fee, compensation, or reward other than the registration fee and a further service fee, based on a schedule of fees, which shall be prominently posted in the agency's place of business and filed with the Commissioner of Labor. A copy of all private employment agency contracts shall also be filed with the commissioner. Private employment agencies shall furnish each applicant with a copy of such applicant's contract. Each private employment agency shall display at all times in a prominent place a printed card with a minimum height of twenty inches and a width of fourteen inches with each letter to be a minimum of one-fourth inch in height, which shall state the maximum service fee charge against the first month's salary and where the applicant may contact the Commissioner of Labor or his agent. The service fee shall be payable at such time as may be agreed upon in writing, but not before the applicant has accepted employment.

Source: Laws 1972, LB 1460, § 8; Laws 1977, LB 162, § 15.

48-520. Applicant; employment order; contents; reimburse transportation costs, when. No private employment agency shall send out any applicant for employment without having a bona fide employment order on file which shall state the name and address of the prospective employer, the name of the individual authorizing the order, and the title, duties and salary range of the position, and stating who shall pay the service fee. If it shall appear that no employment of the kind applied for existed at the place where such applicant was directed, such licensee shall reimburse such applicant, within five days after demand, for any sum paid by such applicant for transportation in going to and returning from such place.

Source: Laws 1972, LB 1460, § 9; Laws 1977, LB 162, § 16.

48-521. Applicant; card or printed paper; contents; copy. Every such private employment agency shall give to every applicant for employment a card or printed paper containing the name of the applicant, the name and address of the employment agency, the name and address to whom the applicant is sent for employment, the type of employment offered by the employer, and who will be liable for the service fee. The employment agency shall retain a copy of such card or printed paper which shall be signed by the applicant for referrals for which the applicant shall assume the fee liability.

Source: Laws 1972, LB 1460, § 10; Laws 1977, LB 162, § 17.

48-522. Repealed.

Source: Laws 1977, LB 162, s. 24.

48-523. Refund fees to employee, when; changes in service fee; duties. If employment furnished the applicant does not continue more than ninety days, through no fault of the employee, then all fees paid or pledged by the employee, with the exception of an amount equal to ten percent of the gross earnings during the period of actual employment, shall be refunded by the private employment agency to the employee upon demand. Whenever there are changes in the original service fee, the agency shall

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issue an amended record.

Source: Laws 1972, LB 1460, § 12; Laws 1977, LB 162, § 18; Laws 1995, LB 699, § 3.

48-524. Commissioner of Labor; determine fault of employment; findings; effect. The Commissioner of Labor shall determine through whose fault the employment did not continue for purposes of section 48-523.

Upon a finding by the Commissioner of Labor or by any court of competent jurisdiction that a private employment agency has violated any of the provisions of sections 48-501.01 to 48-513, 48-515, 48-516, 48-518 to 48-524, 48-1002, 48-1004, 48-1007, and 48-1008 or has engaged in any unfair or deceptive practice in procuring employment for an applicant, such private employment agency shall be ordered to refund to the applicant all fees paid by the applicant, and any contract entered into with the private employment agency by the applicant shall be null and void.

Source: Laws 1972, LB 1460, § 13; Laws 1977, LB 162, § 19.